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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09 555,644	07 31 2000	TSUYOSHI KORIYAMA	000671	1388

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ARMSTRONG, WESTERMAN & HATTORI, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

EXAMINER

ANTHONY, JOSEPH DAVID

ART UNIT PAPER NUMBER

1714

DATE MAILED: 07 07 2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/555,644

Applicant(s)

KORIYAMA ET AL

Examiner

Joseph D. Anthony

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on IDS filed 10/10/00.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119 and 120.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Informal Patent Proceedings (PTO-900)
3) ☐ Notice of Informal Patent Proceedings (PTO-900)
4) ☐ Interview Summary (PTO-413) Paper No(s) _____
5) ☐ Notice of Informal Patent Proceedings (PTO-900)

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, and 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 is indefinite because it makes the acetylated monoglycerides as an optional component whereas claim 1 from which claim 3 directly dependent requires the presence of acetylated monoglycerides.

Claims 6-10 are rejected here because they contain all the limitations of the claims they are dependent on and said dependent claim 3 has been rejected above.

Claim Rejections - 35 USC § 102

Claim Rejections - 35 USC § 103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
by the invention was patented or described in a printed publication in this or a foreign country or in public use or on

obviousness rejections set forth in this Office action.

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Nouvel U.S. Patent Number 3,608,070 or JP 50038737 A as Abstracted by ERWENT-ACC-NO: 1975-69660W.

Nouvel teaches powders that comprise in part glycerol monooleate and aerosil at a weight range that anticipated applicant's claimed invention, see example 1.

JP 50038737 A as Abstracted by ERWENT-ACC-NO: 1975-69660W teaches solid adhesives that comprise in part glyceryl monostearate and silica powder at a weight range that anticipated applicant's claimed invention, see DERWENT Abstract.

6. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Rudnic et al. U.S. Patent Number 5,430,021 or Gaunt et al. U.S. Patent Number 3,806,603.

Applicant's claims are deemed to be anticipated over Example 1 of Rudnic et al..

Applicant's claims are deemed to be anticipated over Examples 6 and 9 of Gaunt et al..

7. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Junge

Feuge et al. U.S. Patent Number 2,745,749 or GB 2015315

Applicant's claims are deemed to be anticipated over column 4, lines 22-53 and claims 7-11 of Junge.

Applicant's claims are deemed to be anticipated over the examples of Mikkelsen et al..

Applicant's claims are deemed to be anticipated over Table 1 and 2 of Feuge et al..

GB2015315 teaches edible moisture barrier compositions. Applicant's claims are deemed to be anticipated over Examples I-IV.

8. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0465801.

EP teaches moisture barrier coating compositions that may be used to coat frozen foods. Applicant's claims are deemed to be anticipated over Examples 1-3.

9. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0465801 in view of JP 4027355 A1 and further in view of EP 0374301 (for claim 10 only).

EP 0465801 has been described above. EP0465801 differs from applicant's claimed invention in that there is no direct disclosure to applying a coating and/or

monoglyceride. There is also no disclosure to the incorporation of a moisture absorbent into the frozen food.

It would have been obvious to one having ordinary skill in the art to use the teaching of JP 4027355 A1 to coatings to make deep-fried foods, as motivation to apply such a coating to frozen food that has been precoated with acetylated monoglyceride as taught by EP 0465801.

It would also have been obvious to one having ordinary skill in the art to use the disclosure of EP 0374301 that it is known in the art to added moisture absorbent to food packages as motivation to add such moisture absorbents to the frozen food package as that by EP 0465801.

10. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB2015315 in view of EP 0374301 (for claim 10 only).

GB2015315 has been described above. GB2015315 differs from applicant's claimed invention in the following ways: 1) there does not seem to be a direct teaching (i.e. of freezing the produced glazed donuts) and 2) that there is no direct disclosure to the incorporation of a moisture absorbent into the frozen food.

It would have been obvious to one having ordinary skill in the art to freeze the produced glazed donuts since freezing such foods is notorsily well known in the art

the disclosure of EP 0374301 that it is known in the art to added moisture

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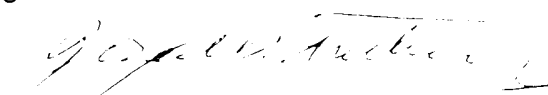
absorbent to food packages as motivation to add such moisture absorbents to the frozen food package as that by GB2015315.

Prior-Art Cited But Not Applied

11. Any prior-art reference which is cited on FORM PTO-892 but not applied, is cited only to show the general state of the prior-art at the time of applicant's invention.

Examiner Information

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Joseph D. Anthony whose telephone number is (703) 308-0446. This examiner can normally be reached on Monday through Thursday from 7:35 a.m. to 6:00 p.m. in the eastern time zone. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The group (**non-after final**) FAX machine number is (703) 872-9310. The group (**after final**) FAX machine number is (703) 872-9311. Unofficial correspondence transmitted by FAX must be marked "DRAFT". All other papers received by FAX will be treated as Official communications and cannot be immediately handled by the Examiner. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0651. The receptionist is located on the 8th floor of Crystal Plaza 3 (e.g. CP-3) and will be the welcome point for all visitors to the building.


Joseph D. Anthony
Primary Patent Examiner
09/20/09